No. 25

No. 674.

3861

Office Supreme Court U. S.
FILED
APR 10 1899
JAMES H. McKENNEY,
Clerk.

SUPREME COURT OF THE UNITED STATES.

Motion to advance.

W. B. AUSTIN

Filed April 10, 1899.

STATE OF TENNESSEE.

(MOTION TO ADVANCE HEARING OF CAUSE).

The above entitled cause is here by writ of error from this Court to the Supreme Court of Tennessee. It is a criminal case and involves the validity of an Anti-Cigarettes Statute passed by the Legislature of Tennessee. The Statute prohibits absolutely the sale of cigarettes within Tennessee. Plaintiff in error being indicted for violation of the Statute defended on the ground that the cigarettes sold by him were importations from another State, and therefore in their importation and sale subject to be validly regulated only by Congress. The trial Court denied the validity of his contention, and he was sentenced to pay a fine. The Supreme Court of Tennessee affirmed the judgment of the trial Court. The plaintiff in error applied for a writ of error from this Court on the ground that the Statute in question, in so far as sought to be applied to the act of the plaintiff in error, is in violation of the Inter-State Commerce Clause of the Federal Constitution. His petition

for writ of error was granted, and the writ issued on December 29, 1898.

The plaintiff in error now moves the Court to advance the hearing of this cause under Rule 26 of the Court, and gives as grounds for his motion:

1st. It is a criminal case.

2nd. Pending its decision, commerce within the State of Tennessee in a commercial article, as plaintiff in error contends, is virtually stopped.

3rd. Pending its decision, plaintiff in error is compelled to forego the exercise of what he claims to be his right, guaranteed by the Federal Constitution, to wit: to sell cigarettes imported by him from another State.

All of which is respectfully submitted.

W. W. FULLER,
J. PARKER,
Att'ys for plaintiff in error.